

FILED

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

UNITED STATES DISTRICT COURT

for the

District of New Mexico

OCT 19 2017

JH

United States of America

v.

Michael A. Duran (YOB: 1986)
SSN: XXX-XX-3869

Defendant(s)

MATTHEW J. DYKMAN
CLERK
Case No. 17mj 2836**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 1, 2017 in the county of Rio Arriba in the
State and District of New Mexico, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. 1153	Crimes in Indian Country
18 U.S.C. 113(a)(3)	Assault with a Dangerous Weapon
18 U.S.C. 924(c)	Used, Carried, and Brandished a Firearm in and in relation to a crime of violence
18 U.S.C. 1951	Obstructed, delayed or affected commerce by Robbery
18 U.S.C. 922(g)	Unlawful possession of a Firearm and Ammunition

This criminal complaint is based on these facts:

See the attached affidavit

☒ Continued on the attached sheet.

Complainant's signature

Peter Lahi, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

October 19, 2017

City and state:

Albuquerque NM

Judge's signature

KAREN B. MOLZEN
U.S. MAGISTRATE JUDGE

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)

VS.)

Case No: _____

MICHAEL A. DURAN (YOB: 1986)

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

1. I am a Special Agent (SA) with the Bureau of Indian Affairs (BIA) assigned to the Northern Pueblos Agency, Ohkay Owingeh, New Mexico. My duties are to provide law enforcement services to the Eight Northern Indian Pueblos and other Indian Country Entities within the United States. My primary duties are investigating violations of the Major Crimes Act and Crimes under 18 USC 1152, and 1153, which occur on the reservations to which I am assigned. I have twenty one years of total law enforcement experience with two different law enforcement entities. I have been with the Bureau of Indian Affairs, Office of Justice Services for eight years. I have completed the Criminal Investigation Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia and the Basic Police Training Program with the United States Indian Police Academy at the Federal Law Enforcement Training Center in Artesia, New Mexico. I have extensive in-service and technical training in different aspects of Law Enforcement. Investigations of Assaults with Dangerous Weapons, Brandishing a firearm during and in relation to a crime of violence, Obstructing commerce by Robbery and Unlawful possession of Firearms and Ammunition are some of my responsibilities.

2. Because this affidavit is being submitted for the purpose of establishing probable cause for the issuance of an Arrest Warrant for crimes committed by **MICHAEL A. DURAN** (hereinafter "**DURAN**"), I have not included each and every fact known to me concerning this investigation. The information set forth in this affidavit is known to me as a result of my own investigation, or has been communicated to me by other law enforcement officers or agents. I have set forth facts I believe are necessary to establish probable cause that the crimes of Assault with a Dangerous Weapon, Using, carrying, and brandishing a firearm during and in relation to a crime of violence, Obstructing, delaying, or affecting commerce by Robbery and Unlawful possession of a Firearm or Ammunition has been committed by **DURAN** while in Indian Country. As a result of my investigation, I have learned the following:

3. Victim -1 of this investigation has been identified as **JANE DOE**, a Non-Indian. Jane Doe has a year of birth of 1957. She will be referred to as **JANE DOE** for the remainder of this affidavit.

4. The suspect of this investigation has been identified as **MICHAEL A. DURAN**, an Indian male and enrolled member of the Ohkay Owingeh Indian Tribe. **DURAN** has a year of birth of 1986. He will be referred to as **DURAN** for the remainder of this affidavit.

5. On Sunday, October 1st 2017 at approximately 6:27 a.m., City of Espanola Police Department (EPD) Police Officer (PO) Michelle Ortega was dispatched to the San Pedro Shell Gas Station located at 509 S. Riverside Drive, Espanola, Rio Arriba County, NM, in regards to a panic front counter alarm. PO Ortega proceeded to the location and was met by Jane Doe at the front door to the business. Jane Doe was very upset and was asking why it took PO Ortega so long to respond to the 911 call. Jane Doe told PO Ortega, "We were just robbed!"

6. Jane Doe described the suspect as a male wearing a dark beanie, red bandana, and a large oversized dark jacket. Jane Doe said after the robbery the suspect had got into a dark gray Ford sports utility vehicle (SUV) bearing New Mexico license plate of NSH145~~S~~ and had left the area. Jane Doe stated the suspect walked in the store initially wearing a red bandana covering the lower portion of his face. The suspect walked over to the coffee makers with his right hand inside his jacket pocket. The suspect stated he was walking and it was cold outside. Jane Doe walked over to the suspect and asked him to remove the bandanna off his face. The suspect pulled the bandana down. Jane Doe stated she felt something was wrong and she walked back to the counter. Another store clerk, identified as M.M., (Y.O.B. 1961), was also present had pushed the panic button at the counter. M.M. walked around the counter and noticed a SUV backing up to the front doors. M.M. noticed the occupants of the SUV had tried to cover the license plate with a plastic shopping bag. The bag was hanging off to the far right side and M.M. was able to get the license plate number which he described as being New Mexico NSH145.

UPM * The San Pedro Shell Gas Station is within the external boundaries of the Santa Clara Pueblo Indian Reservation and is considered Indian Country PL

7. The suspect walked over to the counter with a cup of coffee and asked for three packs of Marlboro cigarettes. Jane Doe rang up the items and the suspect tried to pay for the transactions using a credit card, but it wouldn't work. Jane Doe continued pushing her panic button she had in her pocket. The suspect stated he had to go get his wallet from outside. After the suspect walked outside, M.M. opened the back doors setting off the alarm in hopes it will scare the suspect off. The suspect walked back in asked what that noise was. Jane Doe stated the alarm goes off when the back door is open. Jane Doe said the suspect then pulled out a black revolver from his right pocket and pointed it straight at Jane Doe. Jane Doe said the suspect demanded she give him all the money or he was going to shoot her. Jane Doe stated she couldn't open the cash drawer because of the credit card transaction would not let her in. The suspect continued yelling at her and M.M. saying he would shoot them both. The suspect opened up the cylinder on the gun, which holds the ammunition to the firearm to show them he did have bullets. M.M. told Jane Doe to cancel the transaction and ring up an item to open it. Jane Doe got the register open and the suspect reached over, pulled out the drawer and took the money out. The suspect demanded three more packets of cigarettes. The suspect then ran out and got into the Ford SUV waiting outside for him. The vehicle left in a high rate of speed heading south on Riverside Drive.

8. A vehicle registration check was conducted and the vehicle was registered a female identified as L.S. with an address in Santa Cruz, N.M. EPD POs did check the residence but the vehicle was not there.

9. San Pedro Shell Gas Station Manager D.T. arrived later and was able to look over surveillance. D.T. described the suspect to be around 5'8" to 5'10", had a dark

complexion, thin build, gap in his front teeth and a little facial hair below his lip. The suspect was wearing dark gray jacket, yellow/black gloves, dark beanie, and white tennis shoes with red shoe strings. A copy of the video surveillance was provided to PO Ortega who in turn referred the case to EPD Detective George Martinez.

10. On October 16, 2017, EPD PO Byron Abeyta reviewed the video of the robbery at Detective Martinez's request. PO Abeyta immediately recognized and identified the suspect to be **DURAN** from previous law enforcement contacts in the past. Detective Martinez also concurred with PO Abeyta's identification as he too had previous law enforcement contacts with **DURAN**.

11. On October 17, 2017, Detective Martinez contacted your affiant at my office and apprised me of the armed robbery of the San Pedro Shell Gas Station. Detective Martinez said **DURAN** was identified through video surveillance to be the suspect and he was an enrolled member of the Ohkay Owingeh Indian Tribe. I met Detective Martinez at his office and I reviewed the video footage of the incident. After reviewing the footage, including moving and still images of the video, and photographs of **DURAN**, I was able to identify **DURAN** as being the suspect in the robbery. I opened up a Federal Investigation into the robbery.

12. In addition, an Interstate Identification Index records request, commonly known as a "Triple I" was ran on **DURAN**. The Triple I report indicated **DURAN** was listed as a felon and a suspect on a protection order.

13. Based on my investigation and after consulting with Detective Martinez and D.T., the San Pedro Shell Gas station is a business that operates and sells goods in and affecting interstate commerce. Furthermore, a large portion of the items they sell are

Wagon + Duran was convicted on a Burglary charge in Santa Fe County in 2014
M


not manufactured in New Mexico. The business was closed for approximately 2 hours while the incident was investigated.

14. Based on the above mentioned facts, known to me concerning this investigation, I believe that probable cause exists that **MICHAEL A. DURAN** committed the crime of Assault with a Dangerous Weapon to wit: a firearm by pointing it at Jane Doe, a Non-Indian, and threatened to shoot her. **DURAN** also Used, carried and brandished a firearm during and in relation to a crime of violence, Obstructed, delayed or affected commerce by Robbery, and was in Unlawful possession of a Firearm^{*} or Ammunition, without just cause or excuse while in Indian Country in violation of 18 U.S.C. 1153, 113(a)(6), 924(c), 1951, and 922(g).

*The Firearm
was not
manufactured
in New Mexico
K
KBN*

15. Supervisory Assistant United States Attorney (SAUSA) Kyle T. Nayback reviewed and approved this affidavit for legal sufficiency.

I swear this information is the truth to the best of my knowledge and belief.



Peter D. Lahi
Special Agent
BIA/OJS Northern Pueblos Agency

Subscribed and sworn to before me
This 19th Day of ~~June~~ October 2017.



United States Magistrate Judge